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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Tenth periodic reports of States parties due in 1991

Addendum

TONGA*

[7 January 1993]

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* This report constitutes the ninth and tenth periodic reports of Tonga, due on 17 March 1989 and 17 March 1991 respectively, submitted in one document.

For the seventh and eighth periodic reports submitted by the Government of Tonga and the summary records of meetings of the Committee at which those reports were considered, see:

Seventh periodic report - CERD/C/131/Add.1 (CERD/C/SR.728);
Eighth periodic report - CERD/C/158/Add.5 (CERD/C/SR.838).

GE.93-15690 (E)

PART I - GENERAL

1. The situation is as set out in the eighth periodic report, namely, the Constitution of Tonga embodies the policy of elimination of racial discrimination and is the general legal framework within which racial discrimination is prohibited. The Constitution guarantees enjoyment, on an equal footing of human rights and fundamental freedoms in the political, economic, social and cultural fields and any other field of public life.

2. The provisions of the International Convention on the Elimination of All Forms of Racial Discrimination are recognized by the Kingdom of Tonga. The provisions of the Convention cannot be directly enforced by the courts until they have been implemented by way of internal laws.

3. The most recent information on the demographic composition of the population of the Kingdom of Tonga is taken from the last population census (1986). A breakdown of the population is contained in the following table.

Island /	Kingdom of Tonga	Tongatapu	Vava'u	Ha'apai	'Eua	Niuas
Total	94 649	63 794	15 175	8 919	4 393	2 368
Tongan	90 364	60 745	14 346	8 665	4 297	2 311
Part-Tongan	2 685	1 752	608	198	80	47
European	775	598	139	27	7	4
Indian	98	92	3	1	1	1
Other Pacific Islander	334	258	48	19	4	5
Asian	143	135	5	3	-	-
Other	50	49	1	-	-	-
Not Stated	200	165	25	6	4	-

4. In the 1986 population census, a question was asked concerning a person's ethnic background, i.e. a person's ancestry and/or the ethnic group with which a person identifies. If a person's ancestry is Tongan and/or the ethnic group with which that person identifies is Tongan, then that person is described as a Tongan. If a person's ancestry is recognized as "mixed" but involves some Tongan ancestry, then that person is described as part-Tongan. Tongan-European, Tongan-Chinese, Tongan-other Islander, etc. were all classified as part-Tongan for census purposes.

PART II - INFORMATION IN RELATION TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

5. Since the last report the Tongan Government is continuing to pursue the objectives of article 2 by amending the following Acts:

(a) The Act of Constitution of Tonga (Constitution) has been amended. This clause stated:

> "Conditions under which foreign labourers may be introduced.
>
> "3. Whoever may wish to bring persons from other islands to work for him may make an agreement with them for the number of years they will work for him and a copy of the written agreement he makes with them shall be deposited in the Public Offices stating the amount of payment they shall receive, the period they shall work and a promise to take them back to their own land. And the Government shall cause such contract to be carried out both on behalf of those who engage and those who are engaged. And such persons being so introduced shall be subject to the laws of the land and shall pay the same Customs duties as all the people in the Kingdom and taxes as shall be ordained by the King and his Cabinet. No Asiatic labourers (including Javanese) shall be admitted to the Kingdom unless they come as labourers under a labour contract approved of by the Government. (Law 35 of 1912, Act 10 of 1918)."

This clause was amended in 1976 by Act 3 of 1976 deleting the last sentence. It was repealed by Act 23 of 1990.

(b) The Inquest Act was amended by deleting the words "Tongan or European". Section 2 of the Inquest Act, before amendment, stated, inter alia:

> "Should any person die suddenly his body shall not be buried until the District Officer has been informed and the nearest Tongan or European Medical Practitioner has seen the body and such Practitioner ..."

It now reads:

> "Should any person die suddenly his body shall not be buried until the District Officer has been informed and the nearest Medical Practitioner has seen the body and such Practitioner ...";

(c) The Town Regulations Act has been amended by deleting the words "European" and by substituting the word "non-Tongan". Section 5 (2) of the Town Regulations Act, before amendment, stated, inter alia: "The dwelling house may be built of either European or Tongan materials". It now reads: "The dwelling house may be built of either non-Tongan or Tongan materials".

6. As set out in the eighth periodic report, the following are relevant clauses from the Constitution:

> "Declaration of freedom.
>
> "1. Since it appears to be the will of God that man should be free as he has made all men of one blood therefore shall the people of Tonga and all who sojourn or may sojourn in this Kingdom be free for ever. And all men may use their lives and persons and time to acquire and possess property and to dispose of their labour and the fruit of their hands and to use their own property as they will.
>
> "Slavery prohibited.
>
> "2. No person shall serve another against his will except he be undergoing punishment by law and any slave who may escape from a foreign country to Tonga (unless he be escaping from justice being guilty of homicide or theft or any great crime or involved in debt) shall be free from the moment he sets foot on Tongan soil for no person shall be in servitude under the protection of the flag of Tonga.
>
> "Same law for all classes.
>
> "4. There shall be but one law in Tonga for chiefs and commoners for non-Tongans and Tongans. No laws shall be enacted for one class and not for another class but the law shall be the same for all the people of this land. (Amended by Act 3 of 1976)."

Article 3

7. All forms of racial segregation and apartheid are condemned under Tonga's Act of Constitution, because such is clearly contrary to the liberties and freedoms guaranteed under the said Constitution.

8. In 1992, a South African rugby development team played two matches in Tonga as part of its South Pacific tour. As a result of the goodwill established during this tour, future tours have been organized by the respective administrative rugby union bodies of both nations. It is envisaged that there will be future contact with South Africa, largely in sport and particularly with rugby union. Prior to 1992, there had been no official contact of any kind whatsoever with the Republic. But the change in relations has come about largely due to the changing political climate in South Africa, particularly as the various parties there work towards universal suffrage, racial equality and the destruction of the apartheid system.

9. Tonga has moved, as have other nations to encourage and aid these changes by re-establishing contacts with South Africa. Although, as expressed above, this contact will largely be in sport, in particular rugby, developing relations in other fields can be envisaged.

Article 4

10. Due to the fact that Tonga is, for the most part, racially and ethnically homogeneous, with very few non-Tongans here, racial discrimination of any kind would seem to be non-existent. There are no organizations or bodies in Tonga who incite or perpetrate racial discrimination or racist propaganda. As a result no specific measures have been put into place to prevent such, beyond the Constitution which guarantees freedom and equality for both Tongans and non-Tongans.

11. No further legislative, judicial, administrative or other measures taken in respect of the requirements of the Convention since the eighth report.

Article 5

12. The Constitution covers all the rights referred to in paragraphs (a) to (f) except the right to participate in elections to the Legislative Assembly, which is the right of nationals only.

Article 6

13. The Kingdom has a three-tier court system: the Magistrate Court, the Supreme Court and the Court of Appeal, to which an individual has every right to submit a racial discrimination complaint, should he need to.

Article 7

Education and teaching

14. Although no formal measures have been instigated, the purposes and principles of the United Nations concerning the promotion of human rights and the condemnation of racial discrimination are well disseminated at all educational levels.

Culture

15. The Kingdom of Tonga has a rich traditional culture which its people foster and use, at every opportunity, both at home and abroad, to promote a better understanding between cultures. Recently, discussions and negotiations have taken place between representatives of the Kingdom and representatives of other nations, in particular the Republic of China, for the signing of agreements for cultural cooperation. It is envisaged that such agreements will aid both parties and their peoples to learn to appreciate the other's culture and further to recognize the similarities in Man's culture.

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